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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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09/101,498

07/09/1998

NORBERT MULLER

VO-391

9717

42419

7590

07/27/2006

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EXAMINER

TRAN, HANH VAN

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/101,498

Applicant(s)

MULLER, NORBERT

Examiner

Hanh V. Tran

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5 and 6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the Final Office Action from the examiner in charge of this application in response to applicant's amendment dated 5/3/2006.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1, and 5-6 stands rejected under 35 U.S.C. 103(a) as being unpatentable over USP 3,559,728 to Lyman et al in view of USP 5,184,879 to Brossardt et al.

Lyman et al discloses an air conditioning cabinet structure comprising all the elements recited in the above listed claims and including (1) a cabinet housing (not shown, col. 3, lines 26-29); (2) a hollow cabinet door (10,20), Figs 1-2, comprising (i) a flat surface for sealing an opening of the cabinet housing (col. 1, lines 62-68) thereby defining a first frontal plane and a receptacle space directly adjoining an interior of the cabinet housing, (ii) air-conditioner components integrated supported within the

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receptacle space (col. 1, lines 62-74) and connected and wired with each other entirely within the receptacle space, (iii) a cover (11,21) positioned over the air-conditioner components, and provided with air aspiration openings and air outlet openings (col. 3, lines 39-47); and (3) hinges 17 connecting the cabinet door with the cabinet housing; wherein the interior of the cabinet housing defines a second frontal plane, and when the cabinet door is in a closed position, the first front plane does not impinge upon the second frontal plane, as disclosed by Lyman et al of a substantially flat surface (11,21). The only different being that Lyman et al does not disclose the cabinet door being designed a tub-shaped housing of a trapezoidal cross-section.

Brossardt et al discloses an air conditioning cabinet structure comprising a housing, and a hollow door 20, wherein the hollow door has a tub-shaped housing of a trapezoidal cross-section in order to provide an aesthetic looking door.

It would have been obvious to modify the hollow door structure of Lyman et al by providing the hollow door as a tub-shaped housing of a trapezoidal cross-section in order to provide an aesthetic looking door, as taught by Brossardt et al, since both teach alternate conventional air conditioning electrical cabinet having hollow door structure, used for the same intended purpose, thereby providing structure as claimed.

Further, it would have been an obvious matter of design choice to provide the hollow door of Lyman et al as a tub-shaped, since applicant has not disclosed the criticality of having their door at such shape, and it appears that the hollow door of Lyman et al would perform equally as well.

Response to Arguments

5. Applicant's arguments filed 5/3/2006 have been fully considered but they are not persuasive. In response to applicant's argument on page 5 that the prior art of record fails to disclose, show or teach the claimed limitation in claim 1 of the cabinet door defining a first frontal plane and a receptacle space directly adjoining an interior of a rack defining a second frontal plane, with the components supported within the receptacle space and connected and wired with each other entirely within the receptacle space, since the air conditioner elements of Lyman are separated "from the equivalent receptacle space directly adjoining the rack interior" by the barrier wall 27, the examiner takes the position that the claimed language of the receptacle space directly adjoining an interior of a rack defining a second frontal plane fails to provide adequate structural limitation to the claim in order to distinguish from the prior art of record. Moreover, claim 1 further defines "a cover positioned over the air-conditioner components and the receptacle space". There seems to be a contradiction between applicant's argument and the claimed invention.

6. In response to applicant's argument regarding claim 5 that "the receptacle space of the cabinet door houses components of the air conditioner", the examiner takes the position that the prior art of record meets all the claimed limitations recited in claim 5 and meets said recitation of "the receptacle space of the cabinet door houses components of the air conditioner."

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT *HVT*
July 23, 2006

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Lanna Mai